



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-807]

CERTAIN DIGITAL PHOTO FRAMES AND IMAGE DISPLAY DEVICES AND COMPONENTS THEREOF

NOTICE OF REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC INTEREST, AND BONDING WITH RESPECT TO DEFAULTING RESPONDENT AIPTEK INTERNATIONAL INC.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission is requesting briefing on remedy, the public interest, and bonding with respect to relief against respondent Aiptek International Inc. ("Aiptek") of Hsinchu, Taiwan, which was previously found in default in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 27, 2011, based on a complaint filed by Technical Properties Limited, LLC (“TPL”) of Cupertino, California. 76 *Fed. Reg.* 59737-38. The complaint alleges a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital photo frames and image display devices and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,976,623; 7,162,549; 7,295,443; and 7,522,424. The complaint further alleges the existence of a domestic industry. The Commission’s notice of investigation named twenty respondents including Aiptek. The Office of Unfair Import Investigations was not named as a party to this investigation. The complaint and notice of investigation were served on Aiptek on September 22, 2011. Aiptek failed to respond to the complaint and notice of investigation.

On November 18, 2011, the presiding administrative law judge (“ALJ”) issued an order to Aiptek to show cause why it should not be held in default. *See* ALJ’s Order No. 13 (November 18, 2011). Aiptek failed to respond to the show cause order. The ALJ issued an initial determination (“ID”) on December 22, 2011, finding Aiptek in default, pursuant to 19 C.F.R. §§ 210.13 and 210.16, because respondent did not respond to the complaint, notice of investigation, and the ALJ’s order to show cause. On January 9, 2012, the Commission issued notice of its determination not to review the ID finding Aiptek in default.

On March 8, 2012, complainant TPL filed a declaration requesting immediate relief against the defaulting respondent Aiptek pursuant to Commission rule 210.16(c)(1), 19 C.F.R. § 210.16(c)(1). Its declaration included proposed remedial orders for the Commission’s consideration.

Section 337(g)(1) (19 U.S.C. § 1337(g)(1)) and Commission Rule 210.16(c)(1) (19 C.F.R. § 210.16(c)(1)) authorize the Commission to order immediate limited relief against a respondent found in default, unless after consideration of the public interest factors, it finds that such relief should not issue. The Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry are either adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

When the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See*

section 337(j), 19 U.S.C. § 1337(j) and the Presidential Memorandum of July 21, 2005. 70 *Fed. Reg.* 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant is requested to state the dates that the patents at issue expire and the HTSUS numbers under which the accused products are imported. The written submissions must be filed no later than close of business on April 23, 2012. Reply submissions must be filed no later than the close of business on April 30, 2012. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must do so in accordance with Commission rule 210.4(f), 19 C.F.R. § 210.4(f) which requires electronic filing. The original document and 8 true copies thereof must also be filed on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.16(c)(1) and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16(c)(1) and 210.50).

By order of the Commission.

James R. Holbein
Secretary to the Commission

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